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July 28, 1998

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

RE: CC Docket No. 95-116
In the Matter of
Telephone Number Portability

Dear Ms. Salas:

Enclosed herewith for filing with the Commission are an original plus five copies of the Joint Petition of Oklahoma Rural Telephone Coalition (ORTC) and Texas Statewide Telephone Cooperative, Inc. (TSTCI) for Clarification and Reconsideration of Cost Recovery Provisions for Telephone Number Portability as specified in the Third Report and Order.

If you have any questions regarding this filing, please call Katy Trosper or me at (512) 343-2544.

Sincerely,

Cammie Hughes

Cammie Hughes
Authorized Representative

CH/lsp

Enclosure

cc: Ron Comingdeer, Attorney for ORTC
Don Richards, Attorney for TSTCI

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II. COST RECOVERY FOR ITCs

A. Prior to ITC Number Portability Deployment - May 1998 - June 1999

i. Regional Number Portability Database Costs Are Not Recoverable

The ORTC and TSTCI member companies are local exchange companies subject to the rules promulgated by the Commission in its *Third Report and Order*. In accordance with the *Third Report and Order*, since ORTC and TSTCI member companies meet the definition of an operating telecommunications carrier in the Southwest Region, they must share in the costs of that regional number portability database.

ORTC and TSTCI member companies acknowledge that their customers, as end-users of the public switched network, may, on occasion, cause a query of the regional number portability database to take place in order to complete calls to areas where numbers can be ported between carriers. If, on such a particular call, the ORTC or TSTCI member company is defined as the "N minus one" (N-1) Carrier, the cost of launching that query is defined to be the responsibility of the ORTC/TSTCI member.¹ According to the FCC's most recent *Third Report and Order*, prior to implementation of long-term number portability in their service territories, these are the cost obligations imposed on ORTC/TSTCI member companies.

ii. Current Lack of Local Competition for ITCs

Presently, facilities-based local competition does not exist in the areas served by ORTC and TSTCI member companies; therefore, telephone number portability has not been requested. In fact, competitive entrants, other than potential resellers, and the need for number portability are unlikely in the near future for many of the member companies. We believe that requiring ITCs, such as member companies of ORTC and TSTCI, to pay for number portability in advance of local competition in their service areas is inappropriate. Until the advent of facilities-based local competition in the areas served by ORTC and TSTCI member companies, their end-user customers will receive no direct benefit from telephone number portability. Thus, ORTC and TSTCI member companies contend that they should not be held financially responsible for measures intended to facilitate competition in areas far removed from their operating territories.

¹ Second Report and Order, ¶73.

iii. No Cost Recovery Provided for ITCs

In addition, the *Third Report and Order* does not specify a method for ITCs to recover the added cost burden of call processing required in order to implement telephone number portability prior to June 1999.² To comply with the *Third Report and Order*, as local exchange carriers subject to rate-of-return regulation, ORTC and TSTCI member companies are allowed to recover their carrier specific costs through a charge assessed on end-users.³ However, the Commission states that end-users will “generally receive these charges only when and where they are reasonably able to begin receiving the direct benefits of long-term number portability”.⁴ Since facilities-based competition and long-term number portability do not exist in their service territories, ORTC and TSTCI member companies will not be able to meet the order’s required provisions that allow an ITC to recover number portability costs from its end-users.

Moreover, it appears that the *Third Report and Order* disallows all possible cost-recovery mechanisms for ITCs that do not offer, nor are required to offer, long-term number portability. In its order, the Commission states that it will “not allow LECs to recover long-term number portability in interstate access charges”.⁵ Also, the Commission rejects all requests that number portability costs be pooled,⁶ and disagrees with the United States Telephone Association’s (USTA’s) suggested separate cost categories for ITCs (i.e., carriers with universal service obligations and less than two percent of the nation’s access lines),⁷ with little explanation. In addition, only carriers “not subject to economic rate regulation” are allowed to recover their

² June 1999 represents the earliest required compliance deadline in response to a bona fide request for long-term number portability deployment in areas outside the 100 largest Metropolitan Statistical Areas.

³ Third Report and Order at ¶135, *In re Telephone Number Portability*, CC Dkt No. 95-116 (May 5, 1998).

⁴ Id at ¶142.

⁵ Id at ¶135.

⁶ Id at ¶140.

⁷ Id at ¶76.

costs in “any lawful manner”.⁸ ORTC/TSTCI contend that the Commission has systematically rejected any possible method of cost recovery for ITCs that are not exposed to local competition. Whether costs incurred by ITCs to facilitate number portability are large or small, ORTC and TSTCI member companies believe that they are entitled to recovery of those costs in some authorized manner.

iv. Proposed Interim Cost-Recovery Mechanism for ITCs

ORTC and TSTCI respectfully request the Commission to reconsider its rules regarding cost recovery for an ITC operating in service areas where facilities-based local competition does not exist (i.e., the sharing of databases and SS7 signaling networks to perform queries). In advance of number portability deployment outside the large incumbent Local Exchange Carrier (LEC) service areas, ORTC and TSTCI member companies suggest that ITCs report these costs to the National Exchange Carrier Association (NECA) pool, to be added to the development of access charge rates for the ITCs. It follows that an ITC that charges access through its own tariff will be allowed to include ongoing number portability costs when calculating its access rates. ORTC and TSTCI believe that it is reasonable to establish this method as an interim cost recovery measure until number portability is available in ITC service territories. Eventually, the expansion of competition into ITC service areas will eliminate the need for this recovery mechanism.

B. Cost Recovery When Number Portability Reaches the ITCs

i. Cost Recovery Fees Prohibitive

As facilities-based competition expands into ITC service areas and requests for the deployment of long-term number portability occur, ORTC and TSTCI member companies contend that the number portability cost recovery provisions adopted by the Commission in its *Third Report and Order* will prove unworkable. As described below, we believe that number portability is costly for an ITC to provide. With excessive costs and the small customer base, the resultant higher federal monthly fee assessed to ITC end-users will be prohibitive, and end-user customers will be reluctant to pay any such fee for the limited benefit that they will receive.

⁸

Id at ¶149.

Since none of the ORTC or TSTCI member companies have been requested to provide number portability, estimates of the cost to provide number portability are somewhat speculative, but preliminary estimates appear very expensive.⁹ In addition, ORTC and TSTCI member companies submit that ITCs throughout the country have not begun to address the cost of upgrading business office and billing systems that will be required to support the complex number portability process flows endorsed by the Commission in its *Second Report and Order*.¹⁰ Another consideration is that these estimates reflect costs for fairly large ITC exchanges, serving more customers than the average ORTC or TSTCI member company exchange, and as the customer base decreases, the cost per subscriber to provide number portability for an ITC exchange increases.

ii. Rural Wire Center Limitations in Relation to Cost Recovery

ITC service territories are rural in nature, serving low numbers of customers over a wide service area. ORTC and TSTCI represent telephone companies that serve populations with a density ranging from .8 customers per mile of telephone line to 6 customers per mile of telephone line. The individual switches that serve these customers typically have a unique exchange and rate center. Therefore, when facilities-based competition and service provider number portability enter these ITC markets, customers will only be allowed to “port” their telephone number within a restricted switching exchange boundary. In contrast, in the larger metropolitan areas where multiple switches operate in a densely populated urban exchange and rate center, a customer can change service providers and move between serving switching offices and still keep his/her telephone number. Since the cost of providing number portability is also

⁹ For example, we have seen ITC estimates for network equipment (i.e., Advanced Intelligent Network upgrades and Location Routing Number software) that range from \$250,000 for an exchange serving 8,800 customers to \$1.7 million for an exchange serving 28,000 customers. We would interpret the incremental cost of this investment per subscriber as ranging from approximately \$.95 to \$1.50 per month, respectively. In the sample 8,800 line exchange, this estimate is \$9,500 per month, or \$1.08 per subscriber per month. Additionally, we must consider an estimated ongoing cost for call processing (A-Link interconnection, NPAC order activates, and LNP queries).

¹⁰ Second Report and Order at ¶51-52, *In re Telephone Number Portability*, CC Dkt No. 95-116 (August 14, 1997).

distributed over a large population of customers able to receive the service, the monthly fee assessed will be more agreeable. Urban end-user customers will be offered a much greater value for the amount of money charged on their monthly bill than an ITC could ever offer to its end-user customers.

iii. Cost-Recovery Urban Bias

ORTC and TSTCI member companies believe strongly that the cost recovery methods allowed by the *Third Report and Order* were designed to accommodate large local exchange carriers serving thousands of end-user customers in large metropolitan areas. Given the high cost of network and operating system upgrades required to offer number portability combined with a small customer base, it is unlikely that ITC networks will be able to pass costs on to the end-user in an affordable manner. Since the Commission has stated that cost recovery through interconnection rates¹¹ and access rates¹² are ultimately noncompetitive, ORTC and TSTCI member companies do not see any method specified in the *Third Report and Order* that would provide a workable framework for cost recovery for an ITC.

iv. Reconsideration of Cost-Recovery Mechanisms as They Apply to Rural Carriers

As described earlier, ORTC and TSTCI believe that the industry has yet to focus on the specific implications and costs of number portability deployment for rural ITCs. Number portability deployment is really not required for a rural ITC. In fact, the Commission allowed for exemption for number portability deployment by rural carriers in its *First Report and Order*.¹³ However, ORTC and TSTCI member companies have long supported deployment of advanced services to rural areas and, as such, support the need for future upgrades to their networks to offer an AIN-based infrastructure. In addition, ORTC and TSTCI also believe that facilities-based

¹¹ Third Report and Order at ¶131.

¹² Id at ¶135.

¹³ First Report and Order and Further Notice of Proposed Rulemaking at ¶83, *In re Telephone Number Portability*, CC Dkt No. 95-116 (June 27, 1996); First Memorandum Opinion and Order on Reconsideration at ¶114-115, CC Dkt No. 95-116 (March 6, 1997).

local competition will eventually expand into their service territories, and they would like to be able to offer customers the benefits of number portability when that day arrives.

The ORTC and TSTCI member companies suggest that the Commission examine the requirements and cost of number portability, specifically as they affect ITCs, and reconsider the provisions of the *Third Report and Order* that apply its cost recovery methods for all local exchange carriers subject to rate-of-return regulation. Similar to the implementation of interLATA equal access, the Commission can conduct an independent examination of number portability implementation and costs for ITCs. Their analysis would enable the Commission to issue different cost recovery methods and, perhaps, funding mechanisms that will provide incentive for the deployment of number portability in the ITC service territories. ORTC and TSTCI would willingly participate in a separate Notice of Proposed Rulemaking (NPRM), or any other forum instigated by the Commission that would examine specifically the ITC's role in the deployment of number portability.

III. INTRALATA TOLL, EXTENDED AREA SERVICE AND N-1 CARRIER ASSIGNMENT RESPONSIBILITY

A. State versus Federal Jurisdiction

i. Clarification Sought for N-1 Carrier Assignment for Intrastate Services

With the publication of the *Third Report and Order*, the FCC finds that §251(e)(2) of the Telecommunications Act of 1996 authorizes the Commission exclusively to provide the distribution and cost recovery mechanism for all long-term number portability costs and overrides state authority regarding telephone number portability.¹⁴ Since the Commission has assumed complete jurisdiction over long-term number portability, proposed state tariffs filed to establish intrastate rates and regulations for number portability in Oklahoma and Texas have been withdrawn.

The ORTC and TSTCI member companies contend that many questions remain regarding the assignment of the carrier responsible to satisfy the "N minus one" (N-1) querying protocol,

¹⁴ Third Report and Order at ¶28-29.

specifically for intrastate services including intraLATA toll and a variety of different types of Extended Area Service (EAS) type arrangements.

ORTC and TSTCI request that the FCC clarify its definition of N-1 Carrier assignment responsibility for these specific intrastate services. In addition, clarification is sought regarding the industry's N-1 querying protocol endorsed in the Commission's *Second Report and Order*.¹⁵

ii. Geographically Specific EAS Type Arrangements

Traditionally, both intraLATA toll and EAS-type services have been offered through a variety of jointly-provided network arrangements between incumbent local exchange carriers. Moreover, the associated compensation arrangements (especially for EAS-type services) vary widely depending upon regulatory practice, customer demand, traffic patterns and the trunking requirements necessary to support the service between carriers. ORTC and TSTCI contend that there are as many different types of network and compensation arrangements in place to support these EAS-type services as there are states in the union.

In addition, throughout the United States many intraLATA toll and EAS-type arrangements must comply with specific state laws and/or State Commission rules or orders. For example, in Oklahoma a unique expanded flat-rate, non-optional, two-way calling arrangement exists that was established by order of the Oklahoma Corporation Commission (OCC). The Wide Area Calling Plan (WACP) encompasses numerous exchanges surrounding the Oklahoma City, Tulsa, Enid and Lawton metropolitan areas. WACP calls are classified as local when originating from Southwestern Bell Telephone Company, and as toll from ORTC company exchanges. In Texas, the Legislature established a customer-originated expanded calling arrangement called Expanded Local Calling Service (ELC), which is implemented through a balloting process. The customer fee for ELC service is capped and can be recovered only by the local exchange carrier serving the petitioning exchange. These plans represent only two of the countless EAS-type arrangements ordered by state regulation or law throughout the country.

In light of these unique and varied arrangements, ORTC and TSTCI contend that the Commission should reconsider the practicality of retaining exclusive jurisdiction over **all** distribution and cost recovery mechanisms for **all** long-term number portability costs. ORTC

¹⁵ Second Report and Order at ¶73.

and TSTCI believe it will be especially difficult for the Commission to determine the "N-1" Carrier assignment for intrastate services and appropriate tariff rates for number portability network interconnection and local number portability (LNP) queries associated with various EAS type services.

B. IntraLATA Toll for ITCs and N-1 Carrier Responsibility

i. State-Specific IntraLATA Toll Pooling Arrangements

Primarily, intrastate calls originated from an ITC switch that are defined as local or intraLATA toll will require use of the long-term number portability infrastructure. Throughout its *Third Report and Order*, the Commission seems to assume that intraLATA toll is an interexchange carrier-based service. ORTC and TSTCI contend that for ITCs in some cases this is not a good assumption. Competition for intraLATA toll services has not been implemented in every state. Many ITCs do not offer intraLATA dialing parity to date.

In Oklahoma, Southwestern Bell has been assigned responsibility as the exclusive IntraLATA Toll Carrier for ITC intrastate, intraLATA traffic; however, in other calling arrangements such as WACP and similar EAS-type arrangements, the lines of responsibility are less clear. IntraLATA toll network management and associated intraLATA toll revenue allocation vary from state to state. In Texas, the majority of intraLATA toll calls originated from ITC switches are still transported over a jointly-provided LEC network, and intraLATA toll revenues are distributed through a pooling mechanism, which ends December 31, 1998. In a jointly provided network where revenues are shared, and in networks where one end of the call is classified as local while the other end is classified as toll, ORTC and TSTCI member companies maintain that it is not be appropriate to automatically designate the company serving the exchange that originates the call as the N-1 carrier.

ii. NANC Toll Call Scenarios Are Not Comprehensive

Perhaps due to the differences between states in intraLATA toll provisioning and management, the North American Numbering Council (NANC) failed to issue an N-1 call scenario example for an intraLATA toll call in its *Architecture and Administrative Plan for Local Number Portability*. NANC call scenarios only include examples of local calls and

interexchange carrier (IXC) long distance calls.¹⁶ Not all IntraLATA calls may be processed in accordance with the NANC's IXC long distance call scenario.

iii. Possible Discrimination by the Operator of the Donor Switch Network

Without facilities-based competition and number portability in place, an intraLATA call originated from an ITC switch (non-compliant for LNP) to an LNP-capable switch requires a query to complete the call as dialed, and a default-routed query will be performed in every case by the LEC that owns the donor switch network. By design, this query is completed by the owner of the donor switch network on behalf of the ITC. In accordance with the Commission's *Second Report and Order*, this local exchange carrier will have the right to bill the ITC for queries performed on its behalf.¹⁷ Absent a Commission determination of the N-1 Carrier for intraLATA calls, ORTC and TSTCI contend that this provision gives the owner of the donor switch the power to assign responsibility for an LNP query to an ITC as it sees fit, whether or not that ITC agrees that it meets the N-1 protocol standard and is financially responsible for number portability queries launched on its behalf.

Furthermore, the *Second Report and Order* also allows the owner of the donor switch to block default-routed calls.¹⁸ The owner of the donor switch network could, in theory and without violating the *Second Report and Order*, block calls originating from any carrier that does not agree that it needs to enter into a formal compensation arrangement for the performance of default queries. By simply requiring that these arrangements be in place to properly size and manage its signaling network, the owner of the donor switch network could hold that anything less than a formal arrangement could alter forecasted network usage and thus "impair its network reliability." ORTC and TSTCI do not wish to imply that any carriers would intentionally use the Commission's rules in this manner; we only wish to stress the importance of Commission clarification on this issue.

¹⁶ NORTH AMERICAN NUMBERING COUNCIL, LOCAL NUMBER PORTABILITY ADMINISTRATION SELECTION WORKING GROUP REPORT APP. D (Architecture & Administrative Plan for Local Number Portability) (April 25, 1997), *adopted*, Second Report and Order.

¹⁷ Second Report and Order at ¶76.

¹⁸ Ibid.

For the reasons stated above, until intraLATA toll traffic is universally offered as an interexchange carrier-based service, ORTC and TSTCI request that the Commission clarify the method by which the N-1 carrier will be determined for intraLATA calls. ORTC and TSTCI respectfully suggest that the Commission direct the NANC to develop comprehensive intraLATA toll call scenarios for the various intraLATA toll arrangements in place throughout the country, or remand the determination of the N-1 carrier for intraLATA toll call processing back to the individual states that oversee these intrastate services.

C. EAS Arrangements for ITCs & N-1 Carrier Responsibility

i. EAS is IntraLATA Toll

ORTC and TSTCI members companies believe that the various EAS arrangements that exist among local exchange carriers are essentially intraLATA toll services packaged at an attractive local rate additive to provide toll-free calling between areas where a community of interest exists. As in the case of intraLATA toll services, the N-1 carrier for EAS-type services has not been defined by the NANC in its *Architecture and Administrative Plan for Local Number Portability*. In accordance with our earlier statements, we ask the FCC to clarify the method to be used to determine N-1 Carrier assignment for EAS-type calls.

Additionally, ORTC and TSTCI reiterate that even a simple determination of toll versus local jurisdiction for the numerous EAS-type arrangements in place today may be difficult and confusing.

In fact, in Oklahoma, in the 1991 OCC order that established the WACP,¹⁹ found that toll service in place prior to December 31, 1989 for exchanges that became part of the WACP (primarily from the ITCs) should continue to be identified as intraLATA toll service. That same OCC order found that existing local and EAS services in an exchange that became a part of the WACP (Southwestern Bell and GTE) should be repriced, but remain classified as local, as it was prior to the implementation of the WACP. In Oklahoma, therefore, calls between WACP exchanges are all locally dialed, but are classified as toll or local depending upon the exchange

¹⁹ Order No. 357147 at Page 6, In re Inquiry of the Oklahoma Corporation Commission Concerning the Development of a Comprehensive Wide-Area Calling Plan for the Oklahoma City Extended Telephone Service Area, Cause Nos. PUD 000899/000975/000974 (May 22, 1991).

that originates the call. Given that the jurisdiction can change from toll to local within the WACP area, and since Southwestern Bell is designated as the exclusive carrier for intraLATA toll services in Oklahoma, it is apparent to the ORTC and TSTCI member companies that a consistent designation of the N-1 Carrier may not be easily determined in certain situations.

Oklahoma and Texas may not be the only states that have intricate expanded, flat-rate, unlimited calling arrangements in effect. We believe that it may be in the customers' best interest for the Commission to consider a remand of the number portability cost recovery order and assign oversight of these complex intrastate service arrangements back to the states that originally designed them.

IV. CONCLUSION

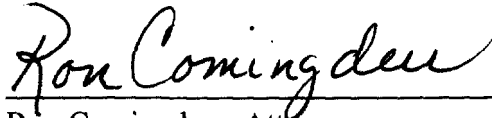
In accordance with the arguments contained herein, the ORTC and TSTCI member companies respectfully request that the Commission:

A. Recognize that rural ITCs have no option but to incur number portability regional shared database and query costs in order to complete calls. The Commission must propose a method for recovery of these costs for rural ITCs.

B. Reconsider the application of the proposed end-user cost recovery method for rural carriers. Study number portability implementation and costs for ITCs so that a cost recovery method and perhaps a funding mechanism can be developed for rural ITCs. Consider the issues of cost recovery and funding as an incentive for deployment of number portability in rural service areas.

C. Clarify the method of designating the N-1 carrier on intrastate services, specifically for IntraLATA toll and EAS-type calling arrangements, that vary significantly from state to state. Recommended options include referral to the NANC, remand to the states, or consideration in a Notice of Proposed Rulemaking.

Respectfully Submitted,



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ORTC MEMBER COMPANIES

Atlas Telephone Company
Beggs Telephone Company
Bixby Telephone Company, Inc.
Canadian Valley Telephone Company
Carnegie Telephone Company
Central Oklahoma Telephone Company
Cherokee Telephone Company
Chickasaw Telephone Company
Chouteau Telephone Company
Cimarron Telephone Company
Cross Telephone Company
Dobson Telephone Company, Inc.
EagleNet, Inc.
Grand Telephone Company
Hinton Telephone Company
KanOkla Telephone Association, Inc.
Lavaca Telephone Company d/b/a Pinnacle Communications
McLoud Telephone Company
Medicine Park Telephone Company
Mid America Telephone Company
Oklahoma Communications Systems, Inc.
Oklahoma Telephone & Telegraph, Inc.
Oklahoma Western Telephone Company
Panhandle Telephone Cooperative, Inc.
Pine Telephone Company
Pioneer Telephone Cooperative, Inc.
Pottawatomie Telephone Company
Salina-Spavinaw Telephone Company
Santa Rosa Telephone Cooperative, Inc.
Shidler Telephone Company
South Central Telephone Association, Inc.
Southwest Oklahoma Telephone Company
Terral Telephone Company
Totah Telephone Company, Inc.
Valliant Telephone Company
Wyandotte Telephone Company

TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

Big Bend Telephone Company, Inc.
Brazos Telecommunications, Inc.
Brazos Telephone Coop., Inc.
Cameron Telephone Company
Cap Rock Telephone Coop., Inc.
Central Texas Telephone Coop., Inc.
Coleman County Telephone Coop., Inc.
Colorado Valley Telephone Coop., Inc.
Comanche County Telephone Company, Inc.
Community Telephone Company, Inc.
Cumby Telephone Coop., Inc.
Dell Telephone Coop., Inc.
E.N.M.R. Telephone Coop., Inc.
Eastex Telephone Coop., Inc.
Electra Telephone Company
Etex Telephone Coop., Inc.
Five Area Telephone Coop., Inc.
Ganado Telephone Company, Inc.
La Ward Telephone Exchange, Inc.
Lake Livingston Telephone Company
Lipan Telephone Company
Livingston Telephone Company
Mid-Plains Rural Telephone Coop., Inc.
Muenster Telephone Corp. of Texas
North Texas Telephone Company
Panhandle Telephone Coop., Inc.
Peoples Telephone Coop., Inc.
Riviera Telephone Company, Inc.
Santa Rosa Telephone Coop., Inc.
South Plains Telephone Coop., Inc.
Southwest Texas Telephone Company
Tatum Telephone Company
Taylor Telephone Coop., Inc.
Valley Telephone Coop., Inc.
Wes-Tex Telephone Coop., Inc.
West Plains Telecommunications, Inc.
West Texas Rural Tel. Coop., Inc.
XIT Rural Telephone Coop., Inc.

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF LARRY A. SCHROEDER,)
ACTING DIRECTOR OF THE PUBLIC UTILITY) CAUSE NO. PUD 000899
DIVISION, OKLAHOMA CORPORATION)
COMMISSION, FOR THE DEVELOPMENT OF A)
COMPREHENSIVE PRICING PLAN FOR THE)
TULSA EXTENDED TELEPHONE SERVICE AREA.)

IN RE: INQUIRY OF THE OKLAHOMA)
CORPORATION COMMISSION CONCERNING THE) CAUSE NO. PUD 000975
DEVELOPMENT OF A COMPREHENSIVE WIDE-)
AREA CALLING PLAN FOR THE OKLAHOMA)
CITY EXTENDED TELEPHONE SERVICE AREA.)

APPLICATION OF LARRY A. SCHROEDER,) CAUSE NO. PUD 000974
ACTING DIRECTOR OF THE PUBLIC UTILITY)
DIVISION, OKLAHOMA CORPORATION)
COMMISSION, FOR THE DEVELOPMENT OF A)
COMPREHENSIVE PRICING PLAN FOR THE)
LAWTON EXTENDED TELEPHONE SERVICE AREA.) ORDER NO. 357147

BY THE COMMISSION:

The Oklahoma Corporation Commission of the State of Oklahoma being regularly in session and the undersigned Commissioners being present and participating, Cause Nos. PUD 000899, 000975 and 000974 (hereinafter sometimes referred to as "the above styled causes" or "these causes") come on for consideration and order. Although these causes have separate and distinct records and involve different communities within the State of Oklahoma, the Commission deems it appropriate to issue a single order which addresses the merits of each of the above styled causes, due to the similarities of the causes and interrelationship of the rate design proposed herein. The revenue sources for the wide area calling plans (WACPs) proposed in the above styled causes are identical, although each WACP will require a different amount of revenue from these sources. Additionally, the disbursement of the revenues to the Local Exchange Companies (LECs) is identical for each of these wide area calling plans, although in different amounts for each calling plan, thereby causing a single order to be more appropriate than three separate orders.

PROCEDURAL HISTORY AND SUMMARY OF EVIDENCE

The appearances, procedural history and summary of evidence in Cause Nos. PUD 000899, 000975 and 000974 are attached hereto as "Attachment A", "Attachment B", and "Attachment C", respectively.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Jurisdiction

The Commission has jurisdiction in the above styled causes pursuant to Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. 131 et seq. and the Commission's Telephone Rules and Regulations Governing and Regulating the Operations of Telephone Companies and Telecommunications in Oklahoma ("Telephone Rules"). Copies of the Notice of Inquiry issued in the above styled causes were sent to all the Local Exchange Companies which derive revenue from the Oklahoma intralATA toll and surcharge pools (sometimes hereinafter referred to as intrastate pools), the applicants of pending Extended Area Service (EAS) causes within the proposed wide area calling plans, the chief executive officer of each community and town located within the proposed wide area calling plan, and the Attorney General of the State of Oklahoma. Additionally, the Notices of Inquiry issued in the above styled causes set forth the proposed calling plan size and telephone exchanges within the calling plan, as well as dates for filed comments, technical conferences and the respective hearings on the merits. These Notices of Inquiry were published one time in Tulsa County, Oklahoma County, and Comanche County, for Cause Nos. PUD 000899, 000975 and 000974, respectively, and any continuances of hearings were made on the record. In addition, when the Commission continued the hearing in Cause No. PUD 000899 from January 30, 1991 until February 7, 1991, and changed the location of the hearing from the Commission's Oklahoma City office to the Commission's Tulsa office, the notice of the changed time and location was sent to everyone on the original mailing list and all attorneys of record. Therefore, the Commission finds that the notice in each of the above styled causes was proper.

II. Interim Orders in related EAS Causes

The Commission previously issued interim orders in Cause Nos. PUD 000529, (Order Nos. 345003 and 345861), 000530 (Order Nos. 345004 and 345862), 000545 (Order No. 347519), 000609 (Order No. 349310), which granted extended area service (EAS) for Collinsville, Skiatook, Claremore, and Inola, respectively, and directed the affected LECs to immediately begin upgrading the necessary central offices in order to provide the service. These interim orders further indicated that the Commission would enter an order which established rates and revenues sources for the newly granted EAS prior to the affected central offices being "cut over" to EAS and established dates by which EAS was to be provided. Thereafter, the Commission issued an interim order in Cause No. PUD 001030, (Order No. 354912) which directed that the EAS previously granted to Collinsville, Skiatook, Claremore, and Inola, by the above referenced interim orders, should be granted without any rate increase above the rate which was then being paid by the telephone subscribers located in the Tulsa Center Zone (\$12.07 for residential customers and \$34.02 for business customers), and that additional funding for these EAS calling scopes would be established by the Commission in the future.

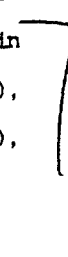
The Commission also issued Order No. 353263 in Cause No. PUD 000692, which granted EAS between the Medicine Park exchange and the Lawton exchange. This order directed that the affected LECs begin providing the EAS service as quickly as possible and directed that the cost of the EAS be recovered by raising the rates of the Medicine Park telephone subscribers to the rate paid by the Lawton subscribers and then adding an additional \$.17 to the residential rates of the Lawton and Medicine Park subscribers and \$.50 to the business rates of the Lawton and Medicine Park subscribers. Thereafter, the Commission modified that order by Order No. 355885, issued in Cause No. PUD 001059. This order directed that the previously ordered EAS additive of \$.17 and \$.50 not be added to the rates of the residential and business customers, respectively, and indicated that the Commission would identify the additional rates and revenue sources in the future, which would recover the cost of providing the EAS.

The Interim Order issued in Cause No. PUD 001030 (Order No. 354912) and the Interim Order issued in Cause No. PUD 000692 (Order No. 353263 as modified by Order No. 355885 issued in Cause No. PUD 001059), authorized rate increases in the form of EAS additives to the residential and business telephone subscribers in the Collinsville, Skiatook, Claremore, and Medicine Park exchanges. These EAS additives were also interim in nature and were subject to being changed by either a final order in Cause Nos. PUD 001030 and 001059 or the above styled causes. The Commission therefore finds that the rate design adopted for the WACPs herein should replace the rate design authorized in Cause Nos. PUD 001030 and 001059. The Commission further finds that the WACP rate design authorized herein should have effective dates according to the implementation plan set forth in this order.

The Commission recognizes that the Interim Orders issued in Cause Nos. PUD 001030 and 001059 caused some revenue losses and additional annual revenue requirements to the LECs involved in providing the previously approved EAS arrangements. Additionally, there are revenue losses to the other LECs participating in the intrastate toll pools. Therefore, the Commission finds that these revenue losses and the additional annual revenue requirements, plus the revenue losses to any other LECs in Oklahoma should be replaced using the revenue sources described herein.

The Commission therefore finds that the EAS arrangements previously granted to Collinsville, Skiatook, Claremore, Inola, and Medicine Park, as set forth above, should be replaced by this order and the wide area calling plans and rates established in this order.

The Commission takes judicial notice, as agreed to by the parties, of the evidence presented and the orders issued in each of the EAS causes filed with the Commission since 1987. The evidence presented and orders issued in Cause Nos. PUD 000529 (Collinsville), 000530 (Skiatook), 000545 (Claremore), 000609 (Inola), 0001030 (Collinsville, Skiatook, Claremore and Inola),



000692 (Medicine Park), 001059 (Medicine Park), 000615 (Braggs) are specifically incorporated in these records. The Commission finds it is appropriate to take judicial notice of these causes and the orders issued therein in order to most effectively utilize all the information which has been presented to the Commission concerning the operations of the LECs operating in Oklahoma and the current climate of the telecommunications industry in this state. It is only by considering all the information available to the Commission that the Commission can make the best reasoned and most equitable decision in these causes; a decision that will ensure fair and equitable treatment to all the ratepayers in the State of Oklahoma and all the LECs who participate in the intrastate toll and surcharge pools. The Commission is well aware that the calling scopes adopted herein and the rate design adopted for these wide area calling scopes, affect a broader range of interests than just the communities within the WACPs and the LECs providing service to the telephone exchanges within each WACP.

IV. Description of the Wide Area Calling Plans

After consideration of the evidence presented in this Cause, the comments filed in response to the Notices of Inquiry, and the public comments received at the hearing in these Causes, the Commission finds that the WACPs described herein are in the public interest, will promote economic growth for the affected communities, and are in the best interests of the ratepayers of the State of Oklahoma. Accordingly, the Commission finds that a wide area calling plan should be adopted for the Tulsa, Oklahoma City and Lawton areas. These calling plans should include all the telephone exchanges and zones set forth in Attachments D, E, and F for the Tulsa, Oklahoma City and Lawton areas, respectively. The exchanges and zones included in Tulsa and Oklahoma City WACPs represent each exchange and zone which are served by a rate center located within a 35 mile radius of the Tulsa and Oklahoma City Center Zone rate centers, respectively. The exchanges included in the Lawton WACP are the exchanges served by a rate center located within a 20 mile radius of the Lawton center zone rate center.

In establishing a 35 mile radius for the Tulsa and Oklahoma City areas and a 20 mile radius for the Lawton area, the Commission considered the location of the then pending requests for EAS and the comments of the public and telephone companies which were given orally and in writing in response to the Notices of Inquiry. The Commission recognized that a "bright line" had to be drawn somewhere, which would encompass all communities with reasonably strong economic and social ties to the Tulsa, Oklahoma City and Lawton areas, yet still be of a reasonably sized calling scope so that communities which would receive no measurable benefit, either through economic growth or significantly reduced long distance telephone bills, would not be included. The Commission acknowledges that in drawing this "bright line", there may be telephone subscribers who are outside the wide area calling plans and believe that they would have benefited from inclusion in the adjacent WACP. The Commission has previously directed the Commission Staff to review the optional toll calling plans which the Commission approved in Cause No. PUD 000766. When this review is conducted the Commission Staff should give consideration to communities located just outside of the WACPs.

The Commission further finds that each new WACP approved herein should allow unlimited two-way calling between any zone and exchange within its respective WACP and that the WACP service should be furnished on a non-optional basis to all telephone subscribers in the wide area calling scopes.

The Commission further finds that the toll service in place prior to December 31, 1989 for exchanges and zones which will become part of a WACP as a result of this order, should continue to be designated as toll service. The Commission further finds that the usage, along with any necessary usage adjustment, as ordered in previous EAS orders by the Commission, associated with the non-usage sensitive pricing for toll service within each respective WACP will continue to be identified as intraLATA toll for purposes of jurisdictional cost allocation to the intraLATA toll and surcharge pools.

Such service should be priced on a non-usage sensitive pricing basis for calling between all zones and exchanges within each of the respective WACPs set out in Attachments D, E, and F to this order. The Commission further finds that with the exception of the local measured service offered by GTE-Southwest (GTE-SW), and the Low Use Service Plan offered by Southwestern Bell Telephone Company (SWBT) within each of the WACPs, any existing basic local service and extended area service within the calling scopes adopted herein, should be repriced by the rate design hereinafter described. The traffic will remain classified, as it was before the implementation of the WACP, with the inter-company settlements continuing to be as they were prior to implementation of the WACP. The increase or decrease of revenues that will occur as the result of the repricing of basic local service and EAS, will be recorded either as a credit or a debit to the Intrastate Pool revenues, respectively.

V. Rate Design

Evidence presented in these causes shows that the existing basic exchange rates vary greatly within each of the new Wide Area Calling arrangements. This is also true between LECs and even among exchanges served by the same LEC. The Commission supports the principle that when feasible, similarly situated ratepayers should pay similar rates for similar services and, therefore, finds that the rate design for the WACPs should reflect that principle. The Commission further finds that since the WACPs for Tulsa and Oklahoma City are the same calling area (i.e., a 35 mile radius from the center zone rate center), the rates for all residential and business ratepayers located within these WACPs should be the same as the existing Oklahoma City center zone rates, i.e., \$12.97 for residential customers and \$38.41 for business customers. Additionally, since the Lawton WACP is smaller in calling scope than Oklahoma City and Tulsa's WACPs and following the principle that similarly situated customers should pay similar rates, the Commission finds that the ratepayers located within the Lawton WACP should pay the existing Lawton center zone rates of \$11.32 for

residential and \$31.04 for business customers. These rates will apply uniformly to all ratepayers located within these WACPs regardless of which LEC provides the WACP service. These uniform rates will be achieved by the application of a WACP toll "additive" or "subtractive" to existing local rates shown on Attachments G, H and I, attached hereto, to achieve the uniform rate levels described above.

VI. Revenue Requirements

a. Revenue Losses and Additional Requirements

This Commission commends the cooperative effort made by the LECs to identify the existing revenue losses and other impacts that will occur upon the implementation of the new WACPs. The Commission recognizes that implementation of the WACPs as directed in this order will result in a substantial reduction in the level of billed intralATA toll revenue by the LECs involved in providing WACP service. Further, this Commission understands that this reduction in billed intralATA toll revenue could adversely affect the revenues of every LEC in the State through the current pooling process. The Commission acknowledges and adopts the Staff's recommendation that the Intrastate pool revenues should not be reduced by the establishment of Wide Area Calling Plans. Therefore, the Commission finds that the revenues of the LECs affected by the implementation of the new WACPs should be replaced as directed herein.

The Commission recognizes that the implementation of the new WACPs will require telephone network rearrangements and switch replacements. The Commission also finds there are additional revenue requirements created by the costs that will result from the new facility additions to provide the new WACPs.

The Commission further finds that the industry is currently experiencing and will continue to experience toll revenue losses associated with the

establishment of the new WACPs. At the completion of the implementation of the three WACPs, the total revenue losses and the associated new revenue requirements that must be funded will continue on an ongoing basis. Therefore, this Commission finds that these revenue losses and additional revenue requirements should be considered in three phases, and the replacement revenues outlined below should be used to replace revenues and recover associated additional revenue requirements.

Phase I should only account for the ongoing revenue losses and additional revenue requirements that have resulted from the interim EAS arrangements that are now associated with the new WACPs and that were in place prior to May 1, 1991 as well as the area transfer of the Oologah exchange to the Claremore exchange. Phase II should account for the ongoing revenue losses and additional revenue requirements associated with the implementation of additional exchanges in the new WACPs as well as those identified in Phase I. Phase III should account for the ongoing revenue losses and additional revenue requirements when the new WACPs are completely implemented. Phase III should replace the accounting in Phases I and II.

The Commission also finds that the Phase I accounting should be based upon the March 21, 1991, effective date for the Skiatook, Collinsville, Claremore and Inola interim EAS calling arrangements and on the March 29, 1991 effective date for the Medicine Park interim EAS calling arrangement and the effective date for the area transfer of the Oologah exchange to the Claremore exchange. Therefore, the industry should identify the Phase I revenue losses and additional revenue requirements in accordance with these findings.

The Commission also finds that the Phase II accounting will depend on the implementation schedule that will be developed and filed by the involved LECs in accordance with the implementation of the Phase II revenue losses and additional revenue requirements as stated in these findings.